

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3761



Introduced by **HON. ARTHUR "Dodo" Y. PINGOY, JR., M.D.**

Explanatory Note

With the resumption of mining operations by virtue of the December 1, 2004 decision of the Supreme Court, government expects that our floundering national economy would be infused with the needed capital by foreign investors who, in the words of DENR secretary Mike Defensor, have expressed "renewed interest in the mining industry".

Who wouldn't be interested with our mines estimated to be \$ 840 billion or PhP 47 trillion? The Philippines is the 5th most mineralized country in the world, ranking 2nd in gold deposits, 4th in copper, 5th in nickel and 6th in chromite, according to experts, and at the same time ranks 11th in graft and corruption, according to the Asian Development Bank.

Horacio C. Ramos, chief of the Mines and Geosciences Bureau confirmed that four mining firms have recently committed \$ 4.5 billion worth of mining projects this early, two weeks after the High Court denied with finality the motion for reconsideration by the B'laan tribe members, one of the petitioners who questioned the constitutionality of the Philippine Mining Act of 1995.

Our experience, however, in the past had showed that if we do not put a tight reign on foreign investments, it will not create even a dent in the advancement of our economic goals. Sadly, we have allowed through the years the unbridled repatriation of profits and capital as indicated in leniency to all the transnational corporations operating in our shores, among many other privileges that our government has accorded them. Verily, there is much to be rectified in this unsound economic policy.

How this serious flaw has persisted is certainly an outcome of the lack of political will by the Executive Branch and the utter lack of patriotism by our economic managers through the years.

This bill marks a new beginning of a needed departure from such deleterious and incoherent policy and it will be first applied in the case of the big mining companies who have already started coming in droves like bees in a honeycomb.

It is, thus, proposed that we must put a cap for an interim period of twenty (25) years on the amount of profits and capital that may be repatriated by these foreign mining investors. This will, in no way, pose as an impediment for them to operate profitably.

Almost needless to state, it is a fair and reasonable imposition to those who will be exacting a great social and ecological costs in our native soil.

This will not hamper them in hauling our gold and silver and much more. Mark my spade: they will be drilling merrily all the way. Their profit margins are simply too long and strong. Add the fact that they will still be here after the 25th year, securing an extension of their mining operations for another 25 years, at the very least.

This legislation assumes greater significance in the light of the staggering budget deficit now hobbling any needed momentum of our economic programs, not to mention the huge foreign debt payments we allocate each year to be still allowed to carry our begging bowls before to our financial creditors either in Paris or in Manhattan.

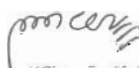
Sec. 10, paragraph 3 of Article XII of the 1987 Constitution provides:

"Sec. 10. x x x. The State shall regulate and exercise its authority over foreign investments within its national jurisdiction and in accordance with its national goals and priorities."

We need to exercise the mandate of this provision to the full hilt for our economic take-off which has eluded us since the 80's.

Perhaps, with the implementation of this measure, the desired "spill-over" and the "multiplier" effects will already be felt.

In view of the foregoing, the approval of this important landmark legislation is hereby earnestly sought.


Arthur "Dodo" Y. Pingoy, Jr.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3761

Introduced by **HON. ARTHUR “Dodo” Y. PINGOY, JR., M.D.**

AN ACT
REQUIRING 50% OF PROFITS AND CAPITAL BY MINING COMPANIES OPERATING
IN THE PHILIPPINES TO BE RETAINED IN GOVERNMENT BANKS FOR A MINIMUM
PERIOD OF TWENTY-FIVE (25) YEARS, ESTABLISHING MECHANISMS FOR ITS
PROPER RETENTION AND ADMINISTRATION AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. This Act shall be known as the “Mining Profits Withholdings Act of 2005”.

SEC. 2. The following rules shall be observed in the repatriation of profits and capital by foreign mining companies:

- (a) It should not exceed fifty-percent (50%) of profits and capital posted at the end of every fiscal year;
- (b) Full repatriation of profits and capital shall only be allowed at the end of the 25th year of mining operations;
- (c) Full disclosure of profits and capital is required;
- (d) The proper amount of profits and capital withheld shall be deposited only with the banks or financial institutions owned, managed and operated by the Philippine government.
- (e) This Act shall not be applied to small-scale mining operators.

SEC. 3. **Implementing rules and regulations.**—Within sixty (60) days from the approval, the Department of Finance and the Bangko Sentral ng Pilipinas shall issue the necessary rules and regulations, in consultation with the Committees on Natural Resources and on National Cultural Communities of the House of Representatives and the Senate, for the effective implementation of this Act.

SEC. 4. **Separability Clause.**—If any provision of this Act shall be declared unconstitutional, any other provision not affected thereby shall remain in full force and effect.

SEC. 5. **Repealing Clause.**—All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SEC. 6. **Effectivity.**—This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,